LITERATURE REVIEW

Bhumika N. (2012). Had written in her article whether death penalty violating under article 19, 14 and 21of the Indian constitution. Krishna Ayer judge express their view in Rajendra Prasad case death penalty is violated of article 14, 19 and 21of the Indian constitution. One more Jagmohan Singh case death penalty could not violated under article 19 of the Indian constitution. I agree with the Hon'ble Krishna Ayer death penalty is violated under article 14, 19 and 21 of the Indian constitution. Death penalty is not rule it is exception I am going through of this judgment today we need to unanimous judgment to secure and protect the people and society.

Shallu B.A. (2010) has written in her article no one shall deprived of his life except to procedure established by law under article 21 of the constitution of India and it is postulates person deprived of his life in procedure reasonable fair and just procedure death penalty a person depriving of his life. Dr. Shallu has explained Rajiv Gandhi in the year 1991in this case twenty six accused guilty committing crime under the POTA act1987 death sentence them in the year 1998.The supreme court in the 1999. The Rajiv Gandhi's killer is waiting their execution. The president has not yet taking decision on mercy petition social economical background of the person. One of the point delays in execution of the death sentence which considered the delay in the mercy petition disposal against the principle of rule of law.

M.B.Biradar (2012) has written in his article about the rights of a man such as social right and cultural right, natural right as well as right to live death sentenced condemns or curtails most of these rights. The human rights organization as improve the quality of life rather than finish life .Death penalty is not necessary no person is never a born criminal and everyman is born good but some circumstances or fanatism compel him to commit crime. In criminal jurisprudence said 'Hate the crime and not the criminal'. There are many reasons in death penalty against the human rights as well as the abolition of the death penalty 'every saint has his past and every sinner has his future'. Offence of death penalty is murder, highway dacoit, robbery, atrocities on women and child gang rape internet obscenity and economical offences or white collar offences. The

first sentence will be to award life imprisonment and not death sentence India has retained the capital punishment in certain cases but the basic human right to life is well protected under the constitution.

Prerna D. S. (2013) has written in her article case death sentence is the law and the policy of rarest of the rare she has referred Bachan Singh case law and Human right activities and NGOs are against the death punishment and the international convention on civil and political rights suggest countries move abolition of crime . It is very correct to define that motive of the punishment ought to be abolish crime and not the criminals life imprisonment is the rule and death sentence is an exception .She further give example of few cases which have been declared as 'rarest of the rare 'case . Secondly swami Shraddananda V/S State Of Karnataka court held that accused murdered his wife cold blooded and it had been pre-planned the court should consider and investigate and reasons behind the crime capital punishment should be considered as last option and should not awarded first for public pressure and political significance cold blood and in collude manner murdered and crimes against women, especially from personal religious caste based reasons and revengeful attitude should be very severely punished.

Anoop K. (2013) had written in his article the society has an angry cry for justice against the criminal, sexual offenders are often termed as monster, besters and sex friends. By the society the especially wrath against the social harmony sexual offences rape are inhuman acts. That the shake the root of the whole society, and the society demands death penalty. The sexual offences are the most barbaric and brutal acts. Anoop kumar has explained rape and murder in detail he gives example of the Supreme Court case law surrender pal v/s state of Gujarat. The trial court found the accused was guilty of the offence of rape. He was sentenced to death and it was confirmed by the high court. But the Supreme Court converted the sentence of death to life imprisonment the ground that the case did not belong to the rarest of the rare cases.

Srivastava S.& Srivastava P.K. (2011) have written in their article some countries such as Britain and Germany are against the capital punishment they had abolished death sentence but India and America have retained death sentence and impose suggestion exceptional crime and special reasons. Death sentence is deprivation of one's life which

has been protected by article 21 of the constitution of India. The Supreme Court up held the constitutionality of death penalty awarded in the rarest of the rare case and for special reasons. Death penalty could be awarded only in white collar offenders anti social offences and against the hardened criminals. Justice Bhagwati in Bachan Singh verses State of Punjab held death penalty as unconstitutional and violating of article 14, 19, 21, of the constitution of India. It is inhuman and cruel. Death penalty is arbitrary and there is no legislative policy. Justice Bhagwati express his view it extend death penalty appears from the point of Indian constitution as if it were against the death penalty and a violating under article 14,19,21, of the constitution. Special reasons justifying death penalty and the rarest of the rare types of cases are yet to totally and exactly defines approximations give a special perspective as per the respectively of the concerned judges.

Arnim A. (2009) has written in his Human beings interrogate and appeal and control deviance .The criminologists, jurists, sociologists and legal professionals have various aspects about crime and penal systems but there is no solution to control the crime has written history ,execution og death penalty constitutionality of death penalty .He has written that there is a demand for abolition of death penalty .Nextly there is an increased rhetoric for capital punishment for rape ,heinous crimes against women that question that death penalty abolition or retention.

Rustam S. (2012). Has written in his article the Mahatma Gandhi is the thrust of the reformative theory of punishment .One line "an eye for an eye will turn the whole world blind" it was an old jungle law criminals as inhuman this theory is slowing the nature of the modern society .Rustam Singh has written in his article 'every saint has past, every sinner has a future' VR. KRISHNA IYER J. when a man commits a crime against society diabolical, coldblooded, pre planned murder of one innocent person. Such person forfeits his rights to life A.P.sen.J.these two statements figure out that in Indian judiciary regarding the imposition of punishment upon the convicts.

Suhas C. (2013) has written in his article Asian centre for human rights in short (ACHR) he has written in his article Afzal Guru case the death row convicts .In the prison manual by the home ministry the failure to inform the family members. According of home government of India, total of 1455 convicts or an average of 132.27 convicts per

year were given death penalty during 2001to2011,Suhas Chakma gives (ACHR) on average less than every third day one convict is awarded death penalty in India. He has explained the state wise by table of the death penalty in 2001to2011.

Murlidhar S. (1998). Has written in his book constitutional validity of death penalty .The law commission of Indian 1967 submits35th report to the government. It justified conclusion for retention of death and has also referred to about Jagmohan case law earlier .The death sentence extinguished all freedom guarantee U/A19 (1) (a) to (g) unreasonable. The second judge awarded either of the tow punishments was not based any legislative policy or standard or constituted an abolition thirdly judges it violative of article 14 since tow person were found guilty of murdered and suggested they must be treated different .The absence of procedure established by the law under which life could be extinguished resulted in a violation of article 21.

Autrisaha & Pritika R. A. (2009) had written in book. The supreme court had suggested well come steps in Indians jurisprudence the revisits the case Bachan singh case has written death penalty as the rule and life sentence as the exception to the consent of rarest of rare dictum in Santosh Bariayar case accused convicted U/S 302,364B, 120B, of I.P.C Bariyar to death but two other hon'ble judges declared the life imprisonment .The High Court observes that bariyar was the main architect the court observed that .The accused were not professional killers and they did not have any criminal history in the view of the court nothing before them to show that reformed and rehabilited and hence sentence him to rigorous life impresentment this judgment is a well come step in the direction of abolition of death penalty .

Rajindar S. (2013). had written in his article. Dr. Ambedkar were opposed to death penalty he has respectfully follow them Kasab was involved in the terror attack. Two and expressed his desire to see his mother all this could be avoided before hanging. The family member were not give opportunity to meet the accused. That there are so many issues arising before the Indian government and judiciary is not taking any proper procedure. The basic problem remains whether such a hardened criminal be hanged for his cruelty against a country or he should be excused for his age and his religions ambitions whatever.

Shivam vij(2013). had written in his article. Death sentence does not serve beyond doubt two third of the world to abolish death sentence Indian judges sentence death and other have been life and still others are acquitted form death sentence is nothing but only a legal lottery .Committee for protection of democratic right held in favour of abolition of death penalty in India. That there is no specific rule and procedure to adopt in India, to pronounce the death punishment. At times the conviction or the acquittal is a matter of fate only.

Venkatesan V. (2011) had written about Ajit Singh Harnamsingh Gujral v/s State of Maharashtra. The Supreme Court judgment says the most heinous and barbaric murder invariably the rarest of rare case imposition of death. He had written in the case of Bachan Singh that death sentence is an exception and the life imprisonment is the rule. He refers to law commissions 35th report –Has surveyed hard data and said. We study prisoner released from jail Supreme Court studies data of commission. The court power wishes to abolish death penalty it has not so for good quality of the prisoners who are out of prison after their respective punishments one may think in this article the parliament has power but does not act while the death penalty court wishes to avoid death penalty but has no power.

Jstice S .K. had written in his article. He has referred the case law Ramnaresh v/s State of Chattisgarh relevant extract from the judgment the court provides certainty and a greater clarity and also the special reason, and rarest of rare case the court keeps in mind that it is being sufficiently punitive and purposefully preventive he refers to Bachan Singh, Machi Singh, Naresh Giriv/s State of M.P.(2001)9 scc615) in this case crime is heinously committed in spite of that death sentence is replaced by to life imprisonment. One feels in this article that there are many case laws that define that death penalty's conversion to life imprisonment is adopted because rarest of rare is not defined to pronounce death penalty hence it option for life imprisonment.--- Jstice Swatanter Kumar(2012).

Shantanu J. & Hirdesh S. (2013). Had written in article. Had raised the issue whether the death penalty be abolished, whether Afzal Guru case is relevant other judicial decisions, whether death penalty alternative punishment for murder u/s302 of

I.P.C.,wheather u/s 302 of I.P.C.against ethos of article 19as well as 14 constitution of India these issue been tirelessly debated on national as well as international levels . He had written that Indian jurisprudence is a blend of reformative and deterrent theories. He had written that English had abolished death penalty , death penalty act 1965 and soviet union death penalty was abolished in 1947. French penal code 1810 amended in 1959 retained death penalty. The death penalty is a part of Indian law. In the international view the capital punishment should abolished there is no specific provision to define that capital punishment should not be imposed.

Rajendar S. (2010) had written in his article and give some important expression some thought by important personality Gandhiji who said "I do regard sentence as contrar to Ahinsa. Only he takes it who gives it. Dr Ambedkar said "I think that having regard to this fct the proper thing for this country to do it to abolish the death sentence altogether "He had written in Canada death penalty was abolished in 1976 and in U.K. 1965 south Africa in 1995 A.P.J. Kalam said why all those ondeath raw were the poorest of the poor. Remain well known only for the sake of official unacknowledged. One has to think over the fact great philosophers and many countries are against death punishment. From human point of view it should be abolished sooner or later.

Soutik B. (2012) had written in his article India allows death penalty in rarest of rare crimes had written and explained Ajmal Qasabs attack on Mumbai and Bhartiya Janta party (B.J.P.) demanded execution of death for him for his war against country hence no mercy petition be allowed. The capital punishment says there is no evidence to show that death penalty deters crime. According amnesty international impose death sentence. It seems the countries against penalty are tow third of the whole world they favour of death penalty it is against the humanity no one has right to take life for one is able to give life to a dead person.

Chandrika P.S. (2004). She had written Benthan and Cesare Beccaria that punishment is an evil in South Africa the first judgment in 1995 abolished death penalty as brutal inhuman and degrading today 68 countries have abolished death penalty for all crimes. Wheather the capital punishment has deterrent quality or not answer that capital punishment should have maximum deterrent effect. The retention of capital punishment

is more effective than any other penalty. Question there is always a as for as attitude is related it arises wheather the death penalty or retention we cannot be constantly adopted.

Rajindar S. (2012) had written. Most of the nations of the world abolished the death penalty. The United nation passed a resolution on 20/11/2010 that all nation of on death penalty if they do not agree to abolish death penalty. He had presented one case Balwant singh rajoana. Who awarded death penalty for assassination of the Punjab chief minister bent Singh in1995. The ultimate denial of human right, and it violates the rights to life. The punishment of death will be life imprisonment. It is crystal clear that Justice Rajendar Prasad catches the starting point to abolish the death penalty in India there are so many cases but the government and parliament observed to abolish death punishment.

Yog M. C. (2013) had written in his article. Three social institutions the police which gathers evidence machinery the court which adjudicates guilt and poses sentence executive which thinks over mercy petition he had written in his article India is notoriously corrupt, dishonest, criminalized police force and the evidence is presented in the court by the police officer. The court considers evidence adjudicates or not he gives examples of many cases. It appears the court can take cognizance to the point of view, nature of the case but the some corrupted police officers never send correct reports.

Karthikeyan D.R. (2013) had written in his article. He had written question that death penalty retention or abolition. Man lives the society to protect the deviant of the society how for “eye for an eye”. “Tooth for tooth”. Emerged it is a jungle law. Innocent person also found guilty and convicted for it is based on wrong evidence and misconception of the circumstantial evidence. It seems that death penalty in India retention or abolish many question arising whether death penalty retention or abolish.

Mr.Gajendra S. (2013) had written in his article “*capital punishment for rape*”. Had written Hindu dharma talks of Narak for evil doors, Muslim talks of Jahannum and Christianity of hell every religion talks of reforms the act of rape is most heinous crime against human therefore the punishment should also be very painful. It seems that the crime and it is physical assault on a women she has to face mental torture, too along with

physical injury. Indian court rules the ‘rarest of rare’ cases the person who has committed offence of rape must be led death.

Ahmad I.G. (2013) had written in his article capital punishment applied with special reason brutal murder and the gravest offences against state. He had written penological aspect deterrent theory, preventive theory, retributive theory, reformative theory and rehabilitative theory .He had written Indian scenario define Mithu v/s state of Punjab. The apex court declared that u/s 303 of I.P.C. is unconstitutional. It is not tune article 14, 21, of constitution. He had given example of Jagmohan sing v/s state of U.P. and Rajendra Prasad v/s state of U.P. It seems that society wants peace, security and cleanliness for crime, there is no solution. The person was passed death penalty it is not solution punishment of death penalty to control the crime.

Sapre ,& Karmarkar M.D. (2012) had written in their article Ajmal kasab, sarobjeet singh and Afzal guru cases had written death penalty is commonly used in cases of heinous crimes. Capital punishment awarded U/s 121,132,194,302,303,305, 396, of I.P.C. they had define mode of execution in death question arise capital punishment retention or abolition. Third person point of view India peace loving country of the world our culture, traditional forget guilty and chance to give reform himself.

Suhrith P. (2013) Had written beccaria treatise publish treatise has two view 1)objectives of punishment states right to take life of a citizen opposed to the society drive its sovereignty lord Macauly drafted the Indian penal code in 1860. The only reason of murder was punishable with death rope was punishable mere imprisonment cannot be placed on the same class of murder the law reverts to deterrrence and reformation for justification. It seems that we change the law for rape or any crimes and awarded the death sentence for the rapist.

Aknsha A. (2013) had written in his article many countries the thought is different in Arabic countries they choose retributive punishment “eye fo an eye” other including India restorative and reformist Indian award death penalty “rarest of rare cases” and hardened criminals he had explained case law. Third person point of view death penalty must be abolished in India.

Raina S.M.N. (2012) had written abolition of death penalty had refer Jagmohansing v/s state of Uttar Pradesh and Bachan Singh V/S State Of Punjab observation of Krishna Iyer.j in Rajendra Prasad v/s state U.P. consider the social ethical spiritual aspect of death penalty .Bhagwati .J. violation of article of 14and 21.It seems that death penalty is violation of article 14and 21of Indian constitution 1950.

Ghatak .N.M. (2011) had written "*mode of execution of death sentence and incidental matters*" he had written in his article 35th report of the law commission on capital punishment 1967 and Royal commission on capital punishment 1949-1953 three point are observed 1)less painful 2)quick 3) least mutilitation of the body. He had define method of execution feet, throwing cliff , Boiling oil , Stoning till death , etc. In India the method of execution is hanging by the rope.

Dave M. (2012) had written in his article "a key domino? Indonesia death penalty politics". Indonesia is at cross roads regarding death penalty whether to be abolish or not Indonesia has carried out 22 death penalties since 1998 Indonesia confuses that capital punishment with retention or abolish.

John L. (2013) had written in his book "does capital punishment deter murder". He writes capital punishment which does not conclude and contribute in lower rates homicide. The number of countries abolish death penalty are Britain (1973) Canada (1976)France(1981)Australia (1985) Italy (1994). It seems in India capital punishment must be abolished and the government must follow the example of the developed countries.

Jocelyn S. (2013) had written in his article" India gang rape sentencing death penalty explained". Had written two execution 2008 death penalty 1) Mohammad Ajmal kasab Mumbai gun attack 2) 2013 Muhammad Afzal attacked Indian parliament had written Asian centre for human right 2001 to 2011.,455 convicts sentenced to death 203 rape resulting to death in case of rapist on pregnant women, mentally retarded or immature girls were sentenced to death.

Jayant S.& Bhavya N. (2012)had written in their article judicial review of clemency power vis-à-vis capital punishment most heinous and barbarous activities are

common part in society where there are serious problems of youth. The capital punishment penal provision should be granted in the rarest of the rare cases under article 72 article and article 161 constitution of India pardoning power of the president or governor they had given number of examples like Mohammad Afzal case.who was victim of both delay and at last being hanged to death.

Kannabiran K.G.(2012) had written in his book the death penalty was itself a grave crime some countries had abolished death penalty in all crimes. India could not risk to abolish death penalty because the maintaining social peace will be hard and there would be problems of law and power. Unfortunately the younger generation for various reasons has turned short tempered and less tolerant.